

WETHERSFIELD PLANNING AND ZONING COMMISSION
PUBLIC HEARING AND MEETING

January 19, 2011

The Wethersfield Planning and Zoning Commission held a public hearing and meeting on Wednesday, January 19, 2011 at 7:00 p.m. in the Wethersfield Public Library's Basement Meeting Room, located at 515 Silas Deane Highway, Wethersfield, Connecticut, which is adjacent to Town Hall (505 Silas Deane Highway, Wethersfield, Connecticut).

1. CALL TO ORDER:

Chairman Roberts called the meeting to order at 7:11 p.m.

1.1 ROLL CALL & SEATING OF ALTERNATES (5 members required for a quorum):

Vice Chairman Harley called the roll as follows:

Member Name	Present	Absent	Excused
Richard Roberts, Chairman	✓		
Thomas Harley, Vice Chairman	✓		
Joseph Hammer, Clerk			✓
Earle Munroe	✓		
George Oickle			✓
Anthony Homicki	✓		
James Hughes	✓		
Antonio Margiotta			✓
Vacancy (alternate)			
Thomas Dean (alternate)	✓		
Dave Edwards	✓		
Angelo Robert Fazzina (alternate)	✓		

Also present: Peter Gillespie, Town Planner/Economic Development Manager;

Chairman Roberts noted that there were 5 full members and 2 alternate members in attendance at the time of roll call. All members present to participate.

Commissioner Dean arrived shortly after the beginning of the Public Hearing on Application No. 1721-10-Z, as described in Agenda Item number 3.1.

Members of the public were present.

2. OLD BUSINESS:

There was no old business discussed at this meeting.

3. NEW BUSINESS:

3.1 PUBLIC HEARING APPLICATION NO. 1721-10-Z: AnnMarie Flannery Seeking a Special Permit in accordance with Section 3.6.G.4 of the Wethersfield Zoning Regulations for an accessory residential use at 130 Wells Road.

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Ms. AnnMarie Flannery, 130 Wells Road, appeared before the Commission and submitted additional information, including pictures, of the barn/site. She asked for clarification in terms of why a neighbor's complaint to the Town brought the necessity of filing this Application. She (and her former spouse, Jim Flannery) indicated that the barn has been in existence since the 1880 and that the barn has been utilized in the same manner for at least thirty (30) years.

Mr. Jim Flannery appeared before the Commission and noted that he installed the stone wall (located at the front of the property) and the patio (in the back yard).

Chairman Roberts indicated that a complaint was made to the Town Building Department on November 3, 2010, and that on November 5, 2010, the Town Building Inspector visited the site. Chairman Roberts mentioned that on November 8, 2010, a letter was sent to the Applicant from Mr. O'Connor that indicated an accessory structure was converted from a storage facility to that of residential use and that residential use of an accessory structure requires a special permit under the zoning regulations.

Ms. Flannery noted that in 1993, Mr. Rushlow [Rocheleau or something like that – see docs in file], former owner of the barn/property (family owned since 1880) submitted a sworn affidavit. The bathroom and wood stove were installed in the barn in the 1970s, and Ms. Flannery does not know the particulars in terms of permits issued for the installations.

Chairman Roberts mentioned that if the Building Official believes that a residential use is present due to the existence of a bathroom, sink, etc., and in order to avoid having said Official return to the site and request the Applicant to remove the bathroom, sink, etc, then the Commission would have to approve a residential use for the barn.

Mr. and Ms. Flannery concurred that they are not looking for the barn to become residential or any other kind of rental space and that it is their desire to continue to use the barn for their own use.

Public Comments:

Mr. George Odell, 134 Wells Road, appeared before the Commission. He indicated that his residence, of which he has lived in most of his life, was built in 1948 by his grandfather who was a builder in Town. He noted that the Rushlow [same] family lived at 130 Wells Road from the early 1960s to the mid 1990s. Another couple purchased the residence thereafter and then sold it to the Flannerys in 1995. He mentioned that the residence was advertised for sale in August 1995 and noted the listing's language, describing a "three-story barn converted barn, family room with stove, fireplace, central air; possible home office; close to schools and shopping and more". He believes that the real estate listing promoted the barn. He indicated that on or about August of 1995, he brought the advertisement to the attention of the Town Assessor and requested that the property cards for 130 and 134 Wells Road be pulled for purposes of evaluation comparison. He indicated that the barn was not taken into account when the property assessment at the site (130 Wells Road) was performed. He questioned the Assessor's office as to why the barn and its amenities were not part of the property assessment. He indicated that the Assessor's office responded by mentioning that no permits were taken out regarding the barn and its amenities. He stated that a clerk in the Assessor's office took a copy of the real estate advertisement, clipped it onto the back of the property assessment card for 130 Wells Road, and indicated that the issue would be brought to the attention of the Assessor. He stated that he never received a response to the issue. He then stated that on or about October 27, 2010, the Applicant's property (130 Wells Road) went on the market for \$450,000.00 and that the main residence and the barn were included in the total

square footage. He sent an e-mail to the listing agent shortly thereafter inquiring about the barn because it was not mentioned in the real estate advertisement for the property. He indicated that the agent replied noting that "there is a three-story barn on the property which has a kitchen, living room, bedroom, loft and full bath and both [structures] square footage wise, including the main residence, total approximately 2,430 square feet with approximately 1400 square feet at the site as the barn". He then brought this information to the attention of the Assessor's office. He asked for field cards for the 130 and 134 Wells Road properties. He learned that there was nothing on the vision sheet that included the barn in the assessment of 130 Wells Road. He indicated that he verified with Mr. O'Connor in the Building Department that no permits have been issued to date with anything installed in the barn. He stated that in November 2010, Mr. O'Connor and Mr. Rose visited the site. He stated that Mr. O'Connor sent the 130 Wells Road property owner a letter and that memos were also sent to Mr. Rose and Mr. Gillespie regarding the site which indicated that criteria have not been met regarding the conversion of the barn for residential use. He stated that Mr. Rose added the barn details to the vision sheet contained with the field card for this property.

Mr. Odell indicated that since the property recently went up for sale, he wanted to take the opportunity to get the discrepancies with the site, as he explained above, straightened out and to have matters that need attention (inspection, code compliance, etc.) be properly taken care of. He questioned the need of the Applicant to have the amenities that are currently in the barn (refrigerator, sink, bathroom, etc.)

Ms. Jessica Serrao, 141 Wells Road, appeared before the Commission in support of the Application. She indicated that she has resided at 141 Wells Road since 2001 and is familiar with the barn at the site. She noted that the barn has never been promoted or used by the Applicant as a residential unit. She indicated that the Applicant's dogs spend time in the barn.

The public comments ended.

Chairman Roberts inquired and the Applicant indicated that no one cooks or sleeps in the barn and that there is no television connection into the barn. The Applicant noted that the field card for the site notes that the barn has a kitchen sink in it.

Chairman Roberts mentioned that the barn is used as a den but it just happens to be in a different building. He noted that an approval for residential use, as it stands now (and with stipulations), of the barn could be the appropriate solution for this Application. He indicated that Inspector and Assessor issues would be clarified with those respective agencies.

Vice Chairman Harley inquired and Commissioner Hughes indicated that because the need for inspection of the barn resulted in the Building Department's (Mr. O'Connor's) input, this Application could be withdrawn if the Applicant so desired. The issue could then be taken up with the Zoning Board of Appeals.

Chairman Roberts noted that according to Mr. O'Connor's Memo to Mr. Gillespie dated January 6, 2011, and Mr. O'Connor's Letter to Ms. Flannery dated November 8, 2010, the residential use of the barn by the Applicant is currently not legal without Zoning approval and building permits for a Change of Use. Chairman Roberts also noted that Mr. O'Connor informed the Applicant that a special permit could be sought by application to the Planning and Zoning Commission to maintain the current residential use of the barn (per Section 3.6E of the Town of Wethersfield Zoning Regulations).

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Commissioner Homicki referred to the Memo and Letter from Mr. O'Connor the mandate to remove the residential use and convert the barn back to its original state. The current use of the barn dates back to at least 1987, and he questioned whether permits for electrical/plumbing were taken out at that time. He also indicated that additional feedback from Mr. O'Connor regarding the 1987 and 1989 inspections may be relevant (in terms of grandfathering provisions) regarding the use of the barn.

Mr. Gillespie indicated that property assessment issues are separate from the zoning and use issues. He believes the Applicant wishes to maintain how the barn has been used by her and her family. He also noted that once the Commission decides how to proceed, the Building Department would have to determine how they will proceed with enforcement of mandates.

Chairman Roberts indicated that perhaps the granting of a special permit with stipulations (i.e. no cooking is to be done and no sleeping in the barn is to occur) as to what can and cannot be done in the barn and with the understanding that should the residence be sold; a special permit would need to be obtained if the residential use desired was different than the one currently in use by the Applicant.

Commissioner Dean concurred with Chairman Roberts that what the Applicant desires from the Application does not constitute an accessory use of the barn at the site.

Commissioner Edwards inquired and Mr. Flannery indicated that the operation of the pellet stove in the barn keeps the pipes that are in the barn from freezing. Mr. Flannery noted that a hot water heater, a shower, and two (2) sinks exist and can be used in the barn.

Mr. Odell noted that he would be satisfied with an approval by this Commission which stipulates no one can sleep in the barn and that the barn is not to be used as a residence. He reasoned that the barn is on the property line and that having an additional tenant and/or family reside in the barn on its third-of-an-acre site would be in too close proximity to his property.

Chairman Roberts noted that what the Commission decides in terms of the barn will be part of the public title record for the property.

Motion: Vice Chairman Harley made a motion to close the Public Hearing regarding **PUBLIC HEARING APPLICATION NO. 1721-10-Z: AnnMarie Flannery** Seeking a Special Permit in accordance with Section 3.6.G.4 of the Wethersfield Zoning Regulations for an accessory residential use at 130 Wells Road.

Second: Commissioner Homicki seconded the motion.

Aye: Roberts, Harley, Munroe, Homicki, Hughes, Dean, Edwards, Fazzina;
Nay: None;

Vote: 8 – 0;

This Public Hearing was Closed.

Motion: Vice Chairman Harley made a motion to approve, **PUBLIC HEARING APPLICATION NO. 1721-10-Z: AnnMarie Flannery** Seeking a Special Permit in accordance with Section 3.6.G.4 of

the Wethersfield Zoning Regulations for an accessory residential use at 130 Wells Road, with the following stipulations:

1. The entire property is considered a single-family, residential property;
2. There is no commercial use of the residence or barn;
3. The barn is not to be utilized as a rental unit or accessory use apartment;
4. There is to be no cooking of food in the barn;
5. There is to be no extended sleeping in the barn;
6. There are to be no additional appliances added to/utilized in the barn;
7. There are to be no new heating systems added to/utilized in the barn;
8. The Applicant/property owner is to obtain the necessary permits pertaining to the barn, as mandated;

Second: Commissioner Homicki seconded the motion.

Aye: Roberts, Harley, Munroe, Homicki, Hughes, Dean, Edwards, Fazzina;

Nay: None;

Vote: 8 – 0;

Commission Comments:

Commissioner Dean suggested that the Applicant be aware that the Commission's focus is on land use and zoning compliance only. He indicated that the Commission's review does not include enforcement of mandates relating to permits and safety, as those issues are to be concluded with the proper authorities.

Commissioner Munroe inquired and Mr. Gillespie indicated that this approval will run with the land despite a potential occurrence of erroneous real estate advertisement (i.e. stating barn as an accessory apartment or office) of the entire property in the future.

Application Approved as Stipulated.

3.2 PUBLIC HEARING APPLICATION NO. 1725-11-Z: Francisca Ramos Seeking a Special Permit in accordance with Section 5.8 (Alcoholic Beverages) for the sale and dispensing of alcohol at 740 Silas Deane Highway.

Mr. Miguel Correa, 407 New Britain Avenue, Hartford, CT, appeared before the Commission to request an approval to serve beer and wine at Milagros Spanish Restaurant, 740 Silas Deane Highway, to meet the demand of the clientele at the site. There is no outdoor seating/patio at the site.

Mr. Gillespie noted that the proposal complies with Section 5.8 and Section 5.35 of the Wethersfield Zoning Regulations. He stated that the Zoning Officer and the Fire Marshal require Planning and Zoning review of this matter. When utilizing the general standard for proximity to churches and schools, as well as general characteristics of the neighborhood, there is no apparent discrepancy with the Application. He also noted that the Applicant is subject to state liquor commission approval and compliance with its standards in addition to a special permit given by this Commission.

There were no comments made by the public regarding this Application.

Motion: Vice Chairman Harley made a motion to close the Public Hearing regarding **PUBLIC HEARING APPLICATION NO. 1725-11-Z: Francisca Ramos** Seeking a Special Permit in accordance with Section 5.8 (Alcoholic Beverages) for the sale and dispensing of alcohol at 740 Silas Deane Highway.

Second: Commissioner Munroe seconded the motion.

Aye: Roberts, Harley, Munroe, Homicki, Hughes, Dean, Edwards, Fazzina;

Nay: None;

Vote: 8 – 0;

This Public Hearing was Closed.

Motion: Commissioner Homicki made a motion to approve, **PUBLIC HEARING APPLICATION NO. 1725-11-Z: Francisca Ramos** Seeking a Special Permit in accordance with Section 5.8 (Alcoholic Beverages) for the sale and dispensing of alcohol at 740 Silas Deane Highway, as submitted.

Second: Commissioner Harley seconded the motion.

Aye: Roberts, Harley, Munroe, Homicki, Hughes, Dean, Edwards, Fazzina;

Nay: None;

Vote: 8 – 0;

Application Approved.

3.3 APPLICATION NO. 1726-11-Z: Jing Wang Seeking Site Plan and Design Review for a take-out Chinese restaurant at 685 Silas Deane Highway.

Ms. Jing Wang, 67 Meetinghouse Road, Berlin, CT, appeared before the Commission. She indicated that the restaurant will employ one person in addition to the family member employees. She stated that there will be no seating at the restaurant, as it will be a take-out restaurant with delivery service. She noted the hours of operation as Monday through Thursday from 10:30 a.m. to 10:30 p.m.; Friday and Saturday from 10:30 a.m. to 11:00 p.m.; and Sunday from 12:00 p.m. to 10:00 p.m. She mentioned that the original proposal depicted two (2) chairs by the counter and that a modification to the plan is desired. The modification is to remove the two (2) chairs from the proposal and place a soda vending machine in their stead.

Commissioner Edwards inquired and Ms. Wang indicated that a walk-in cooler will be installed in the kitchen area of the site.

Motion: Vice Chairman Harley made a motion to approve **APPLICATION NO. 1726-11-Z: Jing**

Wang Seeking Site Plan and Design Review for a take-out Chinese restaurant at 685 Silas Deane Highway, as modified by the Applicant.

Second: Commissioner Dean seconded the motion.

Aye: Roberts, Harley, Munroe, Homicki, Hughes, Dean, Edwards, Fazzina;
Nay: None;

Vote: 8 – 0;

Site Plan and Design Review, as modified by the Applicant, Approved.

3.4 APPLICATION NO. 1727-11-Z Town of Wethersfield: Seeking Site Plan and Design Review in accordance with Section 6.3 of the Wethersfield Zoning Regulations for the installation of Way finding Signage at various locations town-wide.

Mr. Gillespie described the new Way Finding signs that will depict destinations, locations/intersections and gateways/town entrances. He noted there are six (6) or seven (7) different types of signs and there will be at least a total of sixty (60) signs installed in Town. He indicated that the body of each sign will be made of aluminum, have raised features, and will conform to federal standards. He mentioned that the Design Review Advisory Committee and the Historic District Commission have reviewed and approved the signage. Mr. Gillespie indicated that this project should go out to bid in early February 2011.

Commissioner Homicki inquired and Mr. Gillespie indicated there is a desire for the project to be completed by the end of July 2011.

Motion: Commissioner Homicki made a motion to approve **APPLICATION NO. 1727-11-Z: Town of Wethersfield** Seeking Site Plan and Design Review in accordance with Section 6.3 of the Wethersfield Zoning Regulations for the installation of Way finding Signage at various locations town-wide.

Second: Commissioner Hughes seconded the motion.

Aye: Roberts, Munroe, Homicki, Hughes, Dean, Edwards, Fazzina;
Nay: None;

Vote: 7 – 0;

Vice Chairman Harley recused himself from participating in the discussion of this matter and, as such, abstained from the vote.

Site Plan and Design Review Approved.

4. OTHER BUSINESS:

There was no other business discussed at this meeting.

5. MINUTES - Minutes from the December 21, 2010 Meeting.

There were no corrections made to the Minutes from the December 21, 2010 meeting.

Motion: Commissioner Harley motioned to approve the minutes, as submitted.

Second: Commissioner Roberts seconded the motion.

Aye: Roberts, Harley, Munroe, Hughes, Dean, Fazzina;

Nay: None;

Vote: 6 – 0;

Commissioner Homicki and Commissioner Edwards did not participate in the vote, as they were not present for the Planning & Zoning Commission Meeting of December 21, 2010.

Minutes approved as submitted.

MINUTES - Minutes from the January 4, 2011 Meeting.

The Minutes from the December 7, 2010 and December 21, 2010 meetings will be reviewed at the next meeting of the Planning and Zoning Commission.

Review of January 4, 2011 Meeting Minutes is tabled to the next meeting of the Planning and Zoning Commission.

6. STAFF REPORTS:

Mr. Gillespie provided a copy of the Town of Wethersfield Planning and Economic Development Department Monthly Report for January 2011.

7. PUBLIC COMMENTS ON GENERAL MATTERS OF PLANNING AND ZONING:

There were no public comments made at this meeting relative to general matters of planning and zoning.

8. CORRESPONDENCE:

The following items of correspondence discussed at this meeting pertained to the ongoing jurisdiction of the existing wireless telecommunications facility on the roof of 100 Great Meadow Road (Putnam Park), Wethersfield, Connecticut: Letter to Peter Gillespie from Kenneth C. Baldwin, Esq. of Robinson & Cole, LLP dated January 14, 2011; Letter to Kenneth C. Baldwin, Esq. of Robinson & Cole, LLP from Pamela B. Katz, P.E., Chairman of the Connecticut Siting Council, State of Connecticut dated March 24, 2006; Letter to Kenneth C. Baldwin, Esq. of Robinson & Cole, LLP from S. Derek Phelps, Executive Director of the Connecticut Siting Council, State of Connecticut dated July 11, 2008; Letter to Kenneth C. Baldwin, Esq. of Robinson & Cole, LLP from S. Derek Phelps, Executive Director of the Connecticut Siting Council, State of Connecticut dated October 6, 2009; and Letter to Kenneth C. Baldwin, Esq. of Robinson & Cole, LLP from S. Derek Phelps, Executive Director of the Connecticut Siting Council, State of Connecticut dated April 6, 2010.

Kenneth C. Baldwin, Counsel for Verizon Wireless, requested that Mr. Gillespie discuss the issue of

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ongoing jurisdiction of the site with the Commission. Chairman Roberts indicated and the Commissioners concurred that jurisdiction over the roof top telecommunications facility located at 100 Great Meadow Road (Putnam Park) continue to be retained by the Connecticut Siting Council and recommended to Mr. Gillespie that any matters considered egregious at that site be brought to the attention of the Commission.

Mr. Gillespie reminded the Commissioners of the upcoming State of the Town forum presented by The Wethersfield Chamber of Commerce on Friday, January 21, 2011 (7:30 a.m. registration/8:00 a.m. breakfast) that will be held at the Pitkin Community Center. Attendees will learn what's happening in Town on local, regional and state levels, and a question and answer session will occur after the program.

9. PENDING APPLICATIONS TO BE HEARD AT FUTURE MEETINGS:

9.1 PUBLIC HEARING APPLICATION NO. 1724-10-Z Kieran Williams: Seeking a Special Permit to conduct a retail business from a roadside vehicle without a principle building. (Renewal of No. 1685-10-Z).

10. ADJOURNMENT:

Motion to adjourn at 8:45 PM – by Vice Chairman Harley.

Seconded – by Commissioner Homicki.

Aye: Roberts, Harley, Munroe, Homicki, Hughes, Dean, Edwards, Fazzina;
Nay: None;

Vote: 8 – 0;

Meeting adjourned.

Respectfully submitted,

Ellen Goslicki, Recording Secretary